

Wm. Read Fisher 16

730. *December Term, 1876.*

Court of Common Pleas, No. 2,

OF PHILADELPHIA COUNTY.

HARRISON *et al.*

vs.

The Rector, Church-wardens and Vestry
of St. Mark's Church.

COMPLAINANTS' SUPPLEMENTAL AFFIDAVITS.

WM. HENRY RAWLE,
R. C. MCMURTRIE,
For Complainants.

AFFIDAVITS OF REV. DANIEL R. GOODWIN, D. D., LL. D., AND
CLEMENT M. BUTLER, D. D.

Daniel R. Goodwin, being duly sworn according to law, doth depose and say:—

I am "Church of the Holy Trinity Professor of Systematic Divinity," in the Divinity School of the Protestant Episcopal Church, in Philadelphia, which position I have held since January, 1865. I have resided in Philadelphia since 1860. I had before resided in Maine and Connecticut, and have been familiar with the Episcopal Church and its customs, as well as with other churches, not only in those States but in New Hampshire and Massachusetts. I officiated for some two years as the minister of St. Paul's Church, in Brunswick, Me., and for about a year at St. Luke's Church, Portland, Me. I had temporary charge of Christ Church, Hartford, Conn., about nine months; was rector of St. Gabriel's Church, Windsor, Conn., for six years, and was in temporary charge of St. Mark's Church (the defendants) for a period of eight months; this last, a connection which I have always remembered with great pleasure and with sentiments of sincere respect and affectionate esteem for the people of that church, so far as I made their acquaintance.

I regard church-bells, especially in the country and country villages, as very desirable and useful appendages to church buildings. In the villages of New England they are often rung not only before the hours of church service, but at about 7 A. M., at 12 or 1 P. M. and at 9 P. M.; but in these latter cases as a matter of public convenience, not by the church authorities or at their expense, but by the wish and at the expense of the municipal authorities or of the citizens. The neighbors used to desire the bells to be rung for *their* convenience, as, in the country, they usually breakfast at about seven, dine at noon or one o'clock, and retire to rest at nine,—when the bell-ringing was their curfew.

I have not been accustomed to regard the ringing of bells as in any sense a part or parcel of Christian worship. The

primitive church flourished through the whole period of its purity without the use of bells or chimes. They were introduced in the Middle Ages, and though connected with abuses, like many other things in those times, they had their use in reminding men of the fact and the hours of public prayers,—a use the more important when none had watches in their pockets and few had clocks at their homes. Under such circumstances, the bells acquired, of course, pleasing and sacred associations. They were connected with thoughts of religion, and not with discomforts and annoyances and shattered nerves.

But now the state of things is changed. Often our city churches, instead of standing in great open squares and being raised high above all other buildings, like the old cathedrals, are crowded thick around by lofty buildings. And not only so, but almost everybody has easy access to some timekeeper and needs no church-bell, or at least nothing more than the striking of a church-clock, to remind him of the hours of prayer.

Thus, the ringing of church-bells has, in cities, become comparatively useless, and at the same time, under certain circumstances, a source of immensely increased inconvenience. It has little left to recommend it but a beautiful sentiment, and the echo of old and hallowed associations. I do not think these are to be thrust aside with contempt. Far from it. They are, in themselves, respectable, venerable and elevating. I would by all means have them left undisturbed when the enjoyment of them can do no practical harm, and, perhaps, where they have the right of prescription, of long and ancient usage. In this latter case, the inconvenience that may result to others may be considered as assumed rather than imposed. But, speaking not only as a moral man and a citizen, but as a religious man and a Christian, it would be my judgment that the gratification of no man's mere sentiment, however beautiful and pleasing—of no man's mere associations, however hallowed and sacred and religious, should be allowed to weigh for one moment against great practical inconvenience to others, whether public or private—against the destruction or

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great depreciation of men's estates, or against real and extreme discomfort and annoyance to the daily lives of large numbers, not to speak of depressing the health and shortening the lives of many invalids in various degrees of nervous exhaustion and irritability.

A *real* interest and practical advantage, whether private or public, may be set against various degrees of inconvenience and annoyance to other parties; but mere sentimental and casual associations, however elevated their character, can have no weight whatever in such a scale.

I should regard it as highly injurious to the Christian religion if it should come to be *associated* with the greatest discomfort and nuisance of our daily civil life.

DANIEL R. GOODWIN.

Sworn and subscribed before me, this eighth day of February, A. D. 1877.

[SEAL]

JOSEPH MELLORS,
Notary Public.

I have been for several years "Mary Wolfe Professor of Ecclesiastical History," in the Divinity School of the Protestant Episcopal Church, in West Philadelphia, and during a ministry of forty years I have had charge of several churches, and having carefully read the deposition of Rev. Daniel R. Goodwin, I fully concur in the opinions which it contains.

C. M. BUTLER.

Sworn to and subscribed, this eighth day of February, A. D. 1877, before me.

[SEAL]

JOSEPH MELLORS,
Notary Public.

AFFIDAVITS OF NEAR RESIDENTS.

Henry C. Lea, being duly affirmed, deposes and says:—

I am the son of Isaac Lea, one of the complainants in this suit. The said Isaac Lea was absent from Philadelphia during the whole of last summer until the end of September, and again left the city early in November for California, where he is now spending the winter. During the period in which he was thus at home I repeatedly heard him complain of the annoyance inflicted on the neighborhood by the bells of St. Mark's. At the time of his departure he hoped that the authorities of the church would listen to the remonstrance in which he joined, and when that failed to procure relief, and legal proceedings became necessary, he authorized me to have his name included among the complainants. In his correspondence he has repeatedly alluded to the matter, manifesting very great interest in it, and expressing the hope that it would be pressed "to the limit of the law."

It so happened that personally I heard the bells but once in his house during his stay in the city, but on that occasion they made an impression that I shall not soon forget. The sudden crash coming while I was engaged in conversation with my father and sister was most startling. It reverberated through the rooms, and while it lasted rendered conversation difficult if not impossible. From this single experience I would hold that the value of property in the neighborhood must be most seriously impaired by a continuance of the infliction. No pecuniary inducement would tempt me to subject myself and my family to the insufferable annoyance it would cause, if it is to be perpetuated. The absolute suffering would be unrelieved by feeling that the torment thus endured was of the slightest benefit, mental, moral or psychical, to any human being, and would be aggravated by the reflection that it was wantonly inflicted to gratify a diseased vanity which approaches unsoundness of mind.

Arguing from my own convictions, I should say that no one who can afford to enjoy the comforts of home life could

knowingly be tempted to purchase or rent a residence within the afflicted district, and that, therefore, when the present occupants are driven away, the difficulty of finding successors will cause a very material decline in values.

At my own residence, at the south-west corner of Walnut and Twentieth, only about three squares and a half in a direct line from St. Mark's Church, I have heard the bells but once, and then but faintly. This shows how completely the insufficient altitude of the peal confines the sounds within a limited region in which they are intensified by multiplied reverberation.

HENRY C. LEA.

Affirmed and subscribed before me, this seventh day of February, A. D. 1877.

EDWARD S. HARLAN,
Notary Public.

[SEAL.]

George H. Lea, being duly sworn, says:—

Last fall I lived with my grandfather, Mr. Isaac Lea, at his house, No. 1622 Locust street, and during that period I occupied the third-story front room. In the latter part of September and the first part of October I was confined to it by an attack of diphtheria, during which time I suffered continual agony from the din and clatter of St. Mark's so-called chime of bells. No music was produced by them,—nothing but a continuous, unmeaning jangle, and, as my room was so near the church, they sounded as though each bell was struck directly beside my ears. Rest during the day was simply out of the question, as my nervous system was kept at its utmost tension, hourly expecting the hideous noise to recommence. I experienced always a sensation of intense relief when once the clangor ceased, but only to change it in a short time for a feeling of the utmost nervous dread and expectation. Dr. Da Costa attended me during my illness, and I frequently complained to him of the suffering the bells caused me. I

have known those bells to be rung for three-quarters of an hour at a time at some times of ringing, having "timed" them by the clock. The efforts of a professedly Christian church to maintain its right to intensify the mental and physical sufferings of a sick man, must be an edifying spectacle to the world that it professes to convert. I have frequently heard my grandfather, Isaac Lea, and my aunt, Frances Lea, complain that their rest was disturbed on Sunday mornings, and in the afternoons, daily, by the unmusical jangle of these bells, and my grandfather has on several occasions said within my hearing that he was extremely anxious to have the bells stopped.

GEORGE H. LEA.

Sworn and subscribed to before me, this seventh day of February, 1877.

JOHN DEVLIN,
Magistrate.

[SEAL]

George L. Harrison, Jr., being duly affirmed, says:—

I was one of the complainants in the petition of last November to St. Mark's Church, to stop the early morning bell, and to reduce the ringing at other times. I live at No. 1704 Locust street and own that property. The frequent, loud and unmusical sounds proceeding from St. Mark's bells have disturbed myself and family ever since they were established. In the temperate weather, with open windows, they have been and will continue to be a source of the utmost annoyance. I am confident that the effect upon the value of property in the neighborhood of the church is injurious, as lessening the number of bidders in case a sale was desired.

GEO. L. HARRISON, JR.

Affirmed and subscribed, February 6th, A. D. 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

"We, the undersigned, executors of Joseph Harrison, Jr., deceased, being respectively , say, that we have charge of the real estate of the decedent, comprising, among other properties, the entire block of ground extending from Locust street to Chancellor street and from Seventeenth to Eighteenth street, including the row of dwellings upon the north side of Locust street.

"The families of the gentlemen leasing this row of houses from the estate have been very much disturbed by the bells of St. Mark's Church, and one or more of them spoke of removing in consequence thereof.

"From what we have heard of the ringing of these bells, we are quite satisfied of the annoyance it has caused.

"The Rev. Dr. Hoffman has been informed of this annoyance and discomfort to our tenants by one of the executors."

The undersigned, being duly sworn, say:—

The above affidavit was presented for signature to two executors of the estate of Joseph Harrison, Jr., deceased. Mr. S. B. Poulterer admitted that the bell-ringing had been complained of by some of the tenants, and said that *if the property were his own* he would sign this affidavit, but as he stood in the relation of an executor only, he thought it better policy to withhold his signature. Mr. James L. Claghorn, the other executor, said that several tenants had complained to him of St. Mark's bells, and he hoped the result of the present legal proceedings would be to stop the ringing. He would sign this affidavit in connection with Mr. Poulterer, but did not wish to act alone in the matter.

H. M. HOWE,
WM. H. MYERS.

Sworn and subscribed before me, this first day of February,
1877.

EDWARD S. HARLAN,
Notary Public.

[SEAL]

Upon this thirtieth day of January, A. D. 1877, before me, personally appeared Mary Bayard, of the city of Philadelphia, widow of James Bayard, Esq., who, being by me duly affirmed, doth depose and say, that she is the owner and occupant of dwelling-house known as No. 1612 Locust street, in the said city, and hath resided there for eleven years last past, or thereabout; that the said dwelling is situate opposite to the edifice known as the Protestant Episcopal St. Mark's Church; that the noises made by the ringing of the bells of said church have greatly annoyed a relative of deponent who resides with her; that she believes that the frequent and stated use of said bells will lessen the market value of the said dwelling, and that if now looking for another residence deponent would be unwilling to buy or occupy a house in the near vicinity of said church, as she verily believes that in cases of sickness in such neighborhood the sounds of said bells would be very annoying and probably injurious to the sick.

MARY BAYARD.

Affirmed and subscribed before me, the day and year aforesaid.

P. O'DONNELL,
Notary Public.

[SEAL]

CITY AND COUNTY OF PHILADELPHIA, ss.

On the thirtieth day of January, A. D. 1877, before me, the subscriber, a notary public in and for the Commonwealth of Pennsylvania, residing in the said city, personally appeared Jacob Carver, of the said city, conveyancer, who, being duly affirmed according to law, doth affirm and say:—

I reside at No. 1627 Locust street, adjoining St. Mark's Episcopal Church in said city. Four bells have recently been placed in the tower of said church, the frequent "ringing and clangor" of which is not only intensely annoying, but prejudicial to repose and, consequently, to health. In conditions of

decided indisposition their noise is intolerable. I have reason, also, to believe that the effect of the vibration caused by the ringing said bells has been and will be to injure the properties in proximity to said church, thereby depreciating their value.

JACOB CARVER.

Affirmed and subscribed before me, the day and year aforesaid.

CHARLES CARVER,
Notary Public.

[SEAL]

Walter E. Penrose, being duly sworn, says:—

I live at No. 1624 Walnut street, and am familiar with the noise caused by the bells of St. Mark's Church. Sometimes the ringing makes the rooms in the back of our house uninhabitable. They disturb our rest, and have often seriously interfered with conversation. The ringing of these bells has been a source of constant and serious annoyance to the entire family.

WALTER E. PENROSE.

Sworn and subscribed before me, this sixth day of February, A. D. 1877.

WM. H. MYERS,
Notary Public.

[SEAL]

George W. Harris, being duly affirmed, says:—

I reside at No. 1715 Locust street, in one of the houses belonging to the estate of the late Joseph Harrison, Jr. I am familiar with the ringing of the bells of St. Mark's Church ever since their establishment in the church last summer. I observe a decided moderation of sound in their use latterly. In the summer and fall the noise produced by them was much

greater. I consider the early, viz., the 6¾ A. M., bell to have been particularly objectionable, and the immoderate use of them, which was practiced at one time, disturbing to the neighborhood. I believe, also, that it will have a depreciating influence upon the value of the real estate in the immediate neighborhood if not restrained.

GEO. W. HARRIS.

Affirmed and subscribed before me, this ninth day of February, A. D. 1877.

WM. H. MYERS,
Notary Public.

[SEAL]

Septimus E. Norris, of the city and county of Philadelphia, State of Pennsylvania, being duly sworn, doth depose and say:—

That he resides at 1708 Locust street, which is within a square of St. Mark's Church, and is very much annoyed by the clashing of the bells of said church. That he finds said bells particularly disagreeable in the early morning, and considers them very objectionable to the neighborhood.

SEPTIMUS E. NORRIS.

Sworn to before me, this ninth day of February, 1877.

MACGREGOR J. MITCHESON,
Commissioner.

Miss Frances Lea, affirms:—

I have been living twenty-three years at 1622 Locust street. The great recommendation in selecting the neighborhood by my father as a place of residence was its quietness. This has been effectually destroyed by the placing of the bells in St. Mark's Church. To those living as near as ourselves they

are a daily torture, especially, as has been fully experienced, in a time of sickness. Being hung so low, the vibration of the air which they produce through the house is almost as much a cause of suffering as the sound itself. During the ringing of the bells conversation is precluded, even in the back part of the house, while it is almost an impossibility to remain in any room in the front.

FRANCES LEA.

STATE OF CALIFORNIA, }
COUNTY OF SANTA BARBARA, } ss.

Affirmed before me and subscribed to in my presence, this thirty-first day of January, A. D. 1877.

[SEAL]

H. STODDARD,
Notary Public.

E. Franssen, being duly sworn, says:—

I reside at No. 1506 Locust street, Philadelphia. I have, among many others, been disturbed by the ringing of the bells of St. Mark's Church. The immoderate and frequent ringing has made home uncomfortable, and must, in case of sickness more especially, be very distracting. I consider the use of these bells, as it has been practiced, injurious to the value of property and hope it will be discontinued.

E. FRANSSEN.

Sworn and subscribed before me, this seventh day of February, 1877.

[SEAL]

WM. H. MYERS,
Notary Public.

Mary D. Biddle, being duly affirmed, says:—

I reside at No. 1623 Walnut street and own the property. At this season of the year the bells of St. Mark's Church do not cause us much annoyance. In the mild weather, however, the noise will be annoying, principally because the bells

are so harsh and unmusical. In cases of illness then the constant and prolonged ringing would produce much irritation and discomfort. I am very familiar with the immediate neighborhood, and know that it is an intolerable nuisance to those living on Locust street between Sixteenth and Seventeenth streets. In the spring, summer and autumn they will suffer greatly, and I deeply sympathize with them. Property must be greatly depreciated. Nothing would induce me to live there.

MARY D. BIDDLE.

Affirmed and subscribed before me, this seventh day of February, 1877.

WM. H. MYERS,
Notary Public.

[SEAL]

Thomas H. Powers, being duly affirmed, says :—

I reside at No. 1618 Walnut street. Am familiar with the ringing of the bells of St. Mark's Church and consider the noise and vibration which result from it as not only very objectionable but disagreeable. This did not exist when I purchased the property. My reason for not having made an earlier affidavit is that I am a member of a Reformed Episcopal church, and, therefore, any opposition on my part was liable to be misunderstood.

THOMAS H. POWERS.

Affirmed to and subscribed before me, this ninth day of February, 1877.

JOHN RODGERS,
Notary Public.

[SEAL]

Horace Fassitt, 1630 Locust street, being duly sworn, saith :—

I own this property and am decidedly averse to the bells of St. Mark's Church. They are a positive nuisance, to my fancy.

The modification in the mode of ringing the bells since suit brought has been a subject of remark. There are occasional rests and the bells are not so heavily struck. They are still harsh, discordant and rung out of all reason.

HORACE FASSITT.

Sworn to and subscribed, this ninth day of February, A. D. 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

Charles H. Hutchinson, 1703 Locust street, being duly sworn, saith :—

The bells of St. Mark's Church are a positive nuisance. They are rung too often and too long. They are discordant and harsh. I consider them abominable, and think they ought to be suppressed.

C. H. HUTCHINSON.

Sworn to and subscribed, February 9th, 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

John A. Lewis, No. 250 South Sixteenth street, being duly affirmed, saith :—

I own this house, and desire to say that my family has been very much distressed by the bells of St. Mark's Church. They are an unqualified nuisance, and have been so ever since they were put up.

JOHN A. LEWIS.

Affirmed and subscribed, this ninth day of February, A. D. 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

Mrs. R. W. Hansell, No. 254 South Sixteenth street, being duly affirmed, saith :—

The bells of St. Mark's Church are a positive distress to myself and family. The noise of them comes rushing into the house in a most painful manner.

I have noticed the change in the mode of ringing the bells during the last few weeks. They have been modified. They are nevertheless a decided nuisance. In winter they are not so annoying as in summer; but when I have a headache—to which I am subject—it is impossible for me to sleep while they ring, and I could not occupy a back room of my house.

R. W. HANSELL.

Affirmed and subscribed this ninth day of February, A. D. 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

F. C. McCauley, being duly sworn, says :—

I live in the near vicinity of St. Mark's Church, at 1707 Locust street, and have heard the bells rung since last June. They are, in my judgment and to my experience, a great nuisance, and disturb the neighborhood with useless noises. In summer the discomfort will be, of course, infinitely greater. I consider that they will cause the real estate in the neighborhood greatly to depreciate, if they are not restrained.

F. C. McCAULEY.

Sworn to and subscribed, this sixth day of February, A. D. 1877.

MACGREGOR J. MITCHESON,
Commissioner.

John Wyeth, No. 1511 Locust street, being duly sworn, saith :—

The bells of St. Mark's Church have proven a very great annoyance to my family; two members of which, having been confined to their rooms by sickness, for three or four months, respectively, suffered very seriously from the constant and long ringing. Within the last few weeks, the ringing has not been so frequent or so long continued. In my judgment, the continuance of the ringing will prove a serious injury to the value of property in the neighborhood. To me, it would be an insuperable objection to the purchase of property in the vicinity.

JOHN WYETH.

Sworn to and subscribed, February 6th, 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

P. H. Brice, being duly sworn, says :—

I reside at No. 1613 Spruce street. Even at this date the bells of St. Mark's Church are a nuisance, and I am anxiously hoping that they will be stopped.

P. H. BRICE.

Sworn and subscribed before me, this sixth day of February, 1877.

[SEAL]

HENRY POLSZ,
Notary Public.

William Dulles, being duly sworn, says :—

I reside at No. 262 South Sixteenth street, and own the property. At this distance from the bells of St. Mark's Church, when the windows are down and the early morning

bell has been suspended, they have not been so great a nuisance, but they do annoy me and my family. When the windows are up in the mild weather and in summer they will be an intolerable nuisance.

WILLIAM DULLES.

Sworn and subscribed before me, this sixth day of February, 1877.

[SEAL]

PHILIP A. CREGAR,
Notary Public.

Joseph F. Edwards, M. D., No. 260 South Sixteenth street, being duly sworn, saith :—

My family has suffered very much from the loud, discordant and protracted ringing of the bells of St. Mark's Church. I am anxious that the nuisance should be suppressed.

JOSEPH F. EDWARDS.

Sworn to and subscribed, February 6th, 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

William J. Cahoone, No. 225 South Seventeenth street, being duly sworn, saith :—

I consider the bells of St. Mark's Church a nuisance. They ring every day twice, and three times on Sunday. They are discordant, harsh and noisy. The noise rushes down into the back part of the house in a very horrible manner.

I look forward with dread to the ringing next summer, unless the bells are meanwhile suppressed or regulated as to the length of time and number of times that they are to be rung so as to be no longer a nuisance. I sympathize with the complainants in this bill, and earnestly hope their prayer will be granted.

W. J. CAHOONE.

Sworn to and subscribed, this seventh day of February,
A. D. 1877, before me.

MAGGREGOR J. MITCHESON,
Commissioner.

J. Lowrie Bell, No. 255 South Sixteenth street, being duly sworn, saith :—

St. Mark's Church bells were a great nuisance to my family during last summer. They were a positive distress to my wife. They are less offensive now, as the windows are down ; but I wish that they were suppressed, and am in entire sympathy with the complainants. The bells are very discordant and disturbing. This house belongs to me legally. I hold it in trust.

J. LOWRIE BELL.

Sworn to and subscribed, February 7th, 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

Abraham C. W. Beecher, M. D., No. 225 South Seventeenth street, being duly sworn, saith :—

The bell-ringing of St. Mark's Church is and has always been a most decided nuisance, interfering with me when at work, and now and again disturbing my rest. They seriously interfere with my professional work.

The bells are harsh, loud, discordant and disagreeable, and rung out of all reason. Of late, say within the past few weeks, the bell-ringer has modified the ringing of the bells and makes repeated efforts to suggest a tune out of the four bells ; but he has in no case succeeded, it only makes the noise more disagreeable on that account. Still the bells are less noisy and less rapidly rung than they used to be.

In summer, when one's windows are up, the noise is simply

intolerable. I wholly sympathize with the complaint filed in this case and desire its success.

A. C. W. BEECHER.

Sworn to and subscribed, this seventh day of February, A. D. 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

R. Shelton MacKenzie, LL. D., 1712 Locust street, being duly sworn, saith:—

The bells of St. Mark's Church are hung too low,—are harsh, discordant and rung far too long and too frequently. From my experience of them, they must be a distressing nuisance to those living opposite to them.

R. SHELTON MACKENZIE.

Sworn to and subscribed, this eighth day of February, A. D. 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

Albert D. Fell, being duly sworn, says:—

I live at No. 1523 Locust street. The bells established in June last in St. Mark's Church are familiar to me by the disturbing noise which they have made in my place of residence. They have been in use since last June, and continue to annoy me. The 6¾ A. M. bell was excessively obnoxious, breaking one's sleep at an unseasonable hour. Although this has been discontinued, I have reason to believe that it is only temporarily. I dread the approach of the mild weather when the open windows will let in the full force of the clangor of the bells.

ALBERT D. FELL.

Sworn to and subscribed before me, this eighth day of February, 1877.

JOHN RODGERS,
Notary Public.

Joseph H. Trotter, No. 255 South Seventeenth street, being duly affirmed, saith :—

I own this property, and my family has been much annoyed by the bells of St. Mark's Church, which both I and they consider to be an utter nuisance. They are harsh, loud, discordant, rung too long and too frequently. They have been modified somewhat during the last few weeks, which has been a subject of remark in my household. They are, nevertheless, a nuisance.

JOSEPH H. TROTTER.

Affirmed and subscribed, this eighth day of February, A. D. 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

William V. Keating, M. D., No. 1604 Locust street, being duly sworn, saith :—

I am decidedly of the opinion that the bells of St. Mark's, rung as they were last summer and fall, were completely subversive of the peace and comfort of the neighborhood, and would in many cases militate seriously against the recovery of invalids. The bell-ringing last summer and fall was a serious nuisance. I am also convinced that there has been an important modification in the ringing of the aforesaid bells within the last month, and believe it to be the duty of the vestrymen of the church to have these bells rung so as to promote peace, comfort and harmony in our neighborhood, and not to

ignore the claims of Christian courtesy, charity and personal rights.

WILLIAM V. KEATING, M. D.

Sworn to and subscribed, February 8th, A. D. 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

William H. Jackson, being duly sworn, says:—

I reside at No. 1523 Locust street, in the city of Philadelphia. I have been much annoyed by the ringing of the bells which were put up last summer in St. Mark's Church. I consider them a nuisance, and that the discomfort they cause to the neighborhood far outweighs any gratification which the remoter attendants of St. Mark's Church may receive or fancy to receive from the noise of the bells. The neighborhood of St. Mark's Church is very closely built up, and there is no vacant space for the dispersion of sound and vibration. It is driven in upon the ears of those who live in that vicinity, and the effects of this disturbance is to be dreaded in case of sickness. The 6 $\frac{3}{4}$ A. M. bell, temporarily discontinued, was an invasion of one's home-rights which few could have supposed a religious body would have perpetrated. In the short days of the year this ringing was done before daylight, and created the utmost annoyance. In summer the distress was and must continue to be intolerable, if the bells are not restrained.

WM. H. JACKSON.

Sworn to and subscribed before me, this eighth day of February, 1877.

JOHN RODGERS,
Notary Public.

J. F. Portuondo, being duly sworn, says:—

I am a tobacconist, and live at the south-west corner of Seventeenth and Locust streets. I am acquainted with the ringing of St. Mark's Church bells. They have moderated their use of late, but the early morning bell, when it was used, was very distressing to my nerves, and I was disturbed by the too much ringing. I do not mind them as they are rung now, but in summer I should be much annoyed.

J. F. PORTUONDO.

Sworn to and subscribed, February 6th, A. D. 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

Julius C. Portuondo, being duly sworn, saith:—

I live at south-west corner of Seventeenth and Locust streets. The ringing of the bells of St. Mark's Church is very noticeably moderated from what it used to be. It certainly has been so. It is softer. As rung last summer and fall, it was a very great nuisance. I would much rather that they were stopped altogether.

J. C. PORTUONDO.

Sworn to and subscribed, February 6th, A. D. 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

J. T. Biles, being duly affirmed, says:—

I am a carpenter, and live 336 South Sixteenth street. My shop is in Vaughn street, above Locust street. I know about the bells of St. Mark's Church, and from my own experience of their long and constant and early ringing, I can and do

sympathize entirely with the neighbors in their complaints. I am of the opinion that in such a closely-built-up neighborhood, the loud noises produced by the bells must be seriously disturbing, and make the neighborhood undesirable for residences.

J. T. BILES.

Affirmed and subscribed to, February 6th, 1877, before me,

MACGREGOR J. MITCHESON,
Commissioner.

I entirely corroborate the affidavit of my partner.

T. McCLELLAN.

Affirmed and subscribed, February 6th, 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

John L. Bass, being duly sworn, says :—

I reside in Vaughn street, and distinctly hear the bells of St. Mark's Church when they are rung. My house faces the church, and the noise is driven directly into my house. It is a terrible nuisance to myself and family at all times. The bells rung at six and three-quarters o'clock in the morning as they used to be, and as I understand will be resumed, if not restrained by the court, were intensely annoying, disturbing the sleep which we had a right to enjoy, and causing much discontent and irritation.

JOHN L. BASS.

Sworn to and subscribed, February 8th, A. D. 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

AFFIDAVITS OF WITNESSES FOR DEFENDANTS.

Right Reverend William Bacon Stevens, D. D., LL. D., being duly affirmed, says :—

I clearly and distinctly declare that the first part of my affidavit of the 24th of January, 1877, was given solely in reference to my *personal* annoyance from the ringing of the bells, which, I stated, I did not feel by reason of the situation of my residence, having houses between it and St. Mark's, which broke the sound. I have frequently felt and said that the early morning bell, viz., at a quarter before seven, ought not to be rung, and that the bells at other times ought not to be rung as long as they now are, because I believe that in both cases they cause distress and suffering to many persons more directly under the sound of the bells than I was.

WM. BACON STEVENS.

Affirmed and subscribed before me, this eighth day of February, 1877. Witness my hand and notarial seal.

LEWIS H. REDNER,
Notary Public.

[SEAL]

Richard E. Clay, being duly affirmed, says :—

On January 13th, 1877, I made affidavit as follows, at the request of Dr. Hoffman and Mr. Fuller, defendants in the case of Harrison and others against St. Mark's Church :—

“I live at 257 South Seventeenth street. Have lived there about six years. Neither I nor any of my family are annoyed by the ringing of the bells of St. Mark's Church. I should be glad to see the chimes completed.”

Since making the above affidavit, I have seen the affidavits made by parties residing nearer St. Mark's Church, and also the affidavits of experts in the real estate business, and I now

declare that I should not be willing to reside under a more direct influence of the bells of the said church, and am satisfied that under such circumstances myself and family would suffer great annoyance from the immoderate use of the bells, producing so great noise and vibration, and can understand how families so situated suffer from the same. I am of opinion, also, that the practice referred to will have the effect, if continued, of depreciating the value of real estate in the neighborhood of the church.

RICHARD E. CLAY.

Affirmed and subscribed, this seventh day of February, A. D. 1877, before me.

[SEAL]

JOSEPH MELLORS,
Notary Public.

Samuel Bell, being duly sworn, says :—

On January 16th, 1877, I gave the following affidavit in the case of Harrison *et al. vs.* St. Mark's Church, viz. :—

“I reside at No. 268 South Sixteenth street, Philadelphia. The bells of St. Mark's Church do not annoy me in any way whatever.”

In making the above affidavit, I did so only as an expression of the extent to which I was individually affected, and did not intend to convey the impression that others would not be disturbed by the noise and vibration of the bells, or that persons living more directly under their influence, or persons in delicate health, would not be greatly annoyed by the ringing of the bells.

SAMUEL BELL.

Sworn to and subscribed, this seventh day of February, A. D. 1877, before me.

[SEAL]

JOSEPH MELLORS,
Notary Public.

H. P. Smith, being duly sworn, says :—

I made an affidavit in the case of Harrison and others against St. Mark's Church, on January 16th, 1877, as follows:—

“ I resided, until the 9th of December last, at 260 South Sixteenth street, Philadelphia. The bells of St. Mark's Church did not annoy me at all, on the contrary, I rather liked to hear them.”

I now state that I should be unwilling to reside opposite to the church, or in a locality where the noise and vibration from the bells were directly forced upon my attention and experience, and that I am quite clear in the conviction that under such circumstances the bells would be a nuisance. My house was far enough off from the bells to deaden the sound very materially.

H. P. SMITH.

Sworn and subscribed, this seventh day of February, A. D. 1877, before me.

[SEAL]

JOSEPH MELLORS,
Notary Public.

George C. Carson, being duly affirmed, says :—

I reside at north-east corner of Sixteenth and Spruce streets, and can readily understand how persons living in the more immediate neighborhood of the church are annoyed by the ringing of St. Mark's bells, especially the delicate and in times of sickness.

GEO. C. CARSON.

Affirmed to and subscribed, this seventh day of February, A. D. 1877, before me.

[SEAL]

JOSEPH MELLORS,
Notary Public.

Sussex D. Davis, being duly sworn, says:—

I wrote this letter to Mr. Cadwalader:—

213 SOUTH SIXTH STREET,
February 9th, 1877.

MY DEAR MR. CADWALADER:—Yours of this date received, in which you ask me whether I approved of the “bells of St. Mark’s Church,” or whether I meant in my affidavit that I lived sufficiently far off to escape the annoyance. In reply I would say that I live too far away for them to annoy me, but can readily understand how they can annoy those who live in the neighborhood.

Yours, truly,

SUSSEX D. DAVIS.

Sworn and subscribed before me, this eighth day of February, 1877.

WILLIAM H. MYERS,
Notary Public.

[SEAL]

Charles Franklin, 1632 Latimer street, affirmed:—

I desire to supplement the affidavit to Rev. Dr. Hoffman, by the qualification expressed in Mr. Samuel Bell’s second affidavit (February 7th). My wife concurs with me in this. I wish to add, also, that for some weeks past the style of ringing has been very perceptibly modified. It has been softened. Instead of the straight, hard ringing for half an hour at a time, there are rests in it, and an apparent attempt to give the outline of one or more tunes.

CHARLES FRANKLIN.

Affirmed and subscribed, February 9th, 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

Cornelius Stevenson, being duly affirmed, says:—

I gave, on 19th January, an affidavit to defendants, in case of Harrison *et al. vs.* St. Mark's Church, in the following words:—

"I live at No. 1702 Locust street. Have lived there about three months. I, personally, have not been annoyed by the ringing of St. Mark's bells."

Since making the above affidavit I have read the affidavits of other neighbors of St. Mark's Church and of experts in the real estate business, and now express the belief that the practice of ringing the bells, if continued, will have the effect of depreciating the value of real estate in the immediate vicinity of the church. At the time of making the above affidavit I understood that the early morning bells had been permanently stopped.

CORNELIUS STEVENSON.

Affirmed and subscribed to before me, this 9th of February, A. D. 1877.

JOSEPH MELLORS,
Notary Public.

[SEAL]

AS TO MODERATION OF TIME OF RINGING SINCE FILING OF
BILL.

I. Minis Hays, being duly affirmed, says:—

I have read the affidavits of George L. Harrison, MacGregor J. Mitcheson, Richard M. Cadwalader, Mary Read Fisher and Byerly Hart, contained in the book of complainants' affidavits, and declare that the statements therein made, implying that there has been a change in the manner of ringing the bells during the last few weeks, are correct, as is shown by the following statement:—

Between the first day of October and the first day of December, 1876, I frequently and at various times counted the number of strokes to the minute of the St. Mark's bells. I

found that at these times they often reached as high as ninety-four or ninety-six and they never fell below seventy-eight to the minute, and by far the larger proportion of strokes were over eighty-six to the minute.

Since the filing of the bill of the complainants in this cause the diminution in the frequency of the strokes and in their loudness has been a matter of notoriety among the neighbors. On the only Sunday in January last on which I carefully counted the strokes, they averaged about fifty-five to the minute. On Sunday morning last, the fourth day of February, I counted the strokes for nineteen minutes and found that they ranged from forty-five to sixty-five to the minute, and averaged fifty-six strokes. So that taking the maximum number of strokes (ninety-six), frequently noted between October 1st and December 1st, and comparing it with the maximum number (sixty-five), on the 4th of February, I find a diminution in number of almost exactly one-third; and in comparing the minimum numbers (seventy-eight and forty-five) in the same way the diminution appears still greater. The diminution in the number of strokes per minute is produced by prolonging the intervals between the peals as well as between the strokes.

Moreover, I believe that since the diminution of the number of strokes to the minute there has also been a diminution in the violence with which the bells have been struck; but not possessing any other means than the sense of hearing of measuring the loudness of the sound at various times, I am unable to demonstrate this.

I have read the affidavit in this cause made under date of February 3d, by E. A. Hoffman, doctor of divinity, and rector of St. Mark's Church, in which he says that "neither the time nor the manner of tolling the bells for services in the church have been changed or modified since the bells were first used." I can only account for this incorrect statement by the fact that the rectory has been judiciously located on the south side of Spruce street, between Sixteenth and Seventeenth streets, and that there, according to the affidavit of the rector,

made on the twenty-ninth day of January, the chiming is so indistinct that it "is not usually heard, unless a person is listening for it."

I. MINIS HAYS.

Affirmed to and subscribed, this eighth day of February, A. D. 1877, before me.

[SEAL]

JOSEPH MELLORS,
Notary Public.

Herbert M. Howe, M. D., being duly sworn, says :—

I have read the affidavit of the Rev. E. A. Hoffman, rector of St. Mark's Church, stating that there has been no change in the time or manner of ringing or chiming the bells since last June. This statement, I am prepared to say, is incorrect. I have timed and counted the strokes on many occasions since my return to the city last September, and while they were generally over eighty, and sometimes nearer one hundred, in the minute, during the autumn, they have within the past few weeks averaged very much lower. I have counted them by the watch recently, and have found them to average from forty to sixty strokes per minute.

I would have kept careful records of the countings, if I had imagined that such data could ever have been needed. My first motive in counting was my curiosity to know how many times the bells could be hammered in a given period, as at one time it seemed as if the chimer was trying to make the highest possible score. Upon my return to the city, in the middle of January, after a two weeks' absence, I was especially struck with the more moderate manner of ringing the bells, and then made the count of strokes again, for the purpose of comparison.

There has been quite as much difference made in the intensity of the strokes on the bells as in the number of them. I frequently spoke of it as having somewhat the same effect

as if St. Mark's had been moved about a square further distant. The degree of noise, of course, I have not been able to measure, but except it can be shown that the bells or something else, has so entirely perverted my hearing that I could not discriminate between the report of a small howitzer and a huge columbiad, there is no question as to the strictest accuracy of my statement. I may add that every occupant of my house, including servants, and friends who have occasionally stayed with me, have commented upon the same change. The visitors certainly had not become used to the chiming.

The effort which has been made to improve the ringing has of itself made a "change." If one may judge from the ringing, the operator at first was a novice, who made nothing but noise, and the recent futile attempts at tunes (made futile by less than an octave of notes to deal with) shows a change in "the manner of chiming or tolling the bells" which perhaps can be better noted by those who have the full music (?) of them than by one in whose "residence their chiming is not usually heard unless a person is listening for it." This statement of Dr. Hoffman is suggestive, for it cannot be supposed that the sound coming from a bell weighing more than a ton would not travel a distance of about one hundred and seventy yards with great distinctness, were it not obstructed and absorbed by intervening buildings.

H. M. HOWE.

Sworn and subscribed before me, this eighth day of February, A. D. 1877.

[SEAL]

WILLIAM H. MYERS,
Notary Public.

James Bond, No. 1608 Locust street, being duly sworn, saith :—

I occupy a room directly opposite to St. Mark's Church, and have a very distinct knowledge of the ringing of its bells. For some weeks past the change in the mode of chiming them has been very marked ; the modification has been repeatedly noticed and spoken of in the family.

In illustration of this, I may be permitted to say that, upon Sunday afternoon, December 3d, A. D. 1876, I counted, by my watch, the number of times the bells were struck. In eighteen and a half minutes they were hammered one thousand five hundred and forty-five times, besides the tolling off for five minutes—one hundred and fourteen times. This was shorter than the usual time devoted to this work, but the bells were struck sharply, quickly, without regard to time or musical rule—producing a harsh, discordant sound and great reverberation.

This was their usual mode of ringing the bells, until within a few weeks past, when the style of ringing was changed—the rapidity of the strokes reduced, and an effort made to indicate certain tunes, such as are sometimes used to the familiar hymns, “ Onward, Christian Soldiers ; ” “ Rock of Ages,” &c. The execution of these airs was *very* defective, but clear enough to show what was attempted.

On Sunday afternoon last I timed them again, and in twenty minutes the bells were struck, by my count, one thousand two hundred and ninety-seven times, besides the tolling off, which again took five minutes, and numbered one hundred and eleven times—the whole occupying twenty-five minutes. The ringing was not uniform on this occasion, being faster one part of the time than at another, and giving less frequent rests. The aggregate result of the ringing upon the date first quoted was eighty-three and a half strokes to the minute, while that upon the last Sunday afternoon was sixty-four and a half to the minute. Upon both of these occasions both Mr. and Mrs. Mitcheson kept separate and distinct counts, and our results were almost the same—their count on last Sunday

being somewhat less than mine. Mr. Mitcheson also counted seven distinct minutes, which averaged fifty-five to the minute. My brother made them sixty to the minute in the morning. Upon Sunday evening the bells were again rung for fully half an hour—their usual length of time.

JAMES BOND.

Sworn to and subscribed, this eighth day of February, A. D. 1877, before me.

JOSEPH MELLORS,
Notary Public.

[SEAL]

Richard M. Cadwalader, being duly sworn:—

In reply to the affidavit of the Rev. E. A. Hoffman, rector of St. Mark's Church, as to the change in the time and manner of ringing the bells. I repeat that there *has* been a change since they were first hung in June last, and especially since this suit has been commenced. In the latter case, it may be due to the attempt to produce musical notes, which, apart from the natural harshness of the bells themselves,—impossible, because they are only four of an octave,—still make fewer strokes to the minute, coming more regularly, and not so violently nor so continuously, as stated in the affidavit of Byerly Hart. As to our becoming accustomed to the sound, or finding it not so great a nuisance as supposed, on the contrary, the annoyance increases. Since Saturday, February 3d, the ringing has become more violent. On Sunday February 4th, I counted, by the watch, sixty-five strokes to the minute. This, though a difference of nearly three thousand strokes a day (not including the early morning ringing), less than on Sundays of the early fall, is yet in excess of the Sundays just after the bill was filed. On Sunday evening, February 4th, the ringing from seven to seven-thirty was so violent that my children were unable to sleep until the service commenced. This naturally causes

us anxiety as the spring approaches. It will then be impossible to keep the doors and windows closed. Perhaps our greater misfortune is that the rector, every member of the vestry, and nearly the whole congregation live too far away to understand the annoyance.

In the sworn answers of the defendants (which I am advised is, according to the course and practice of chancery, always deemed and taken to be one of the most solemn records of the court), it is deliberately averred that our co-plaintiff, Mr. George L. Harrison, "constituted the class of intensely sensitive persons," on whose behalf especially the communication was made. Mr. Mitcheson, in his recent affidavit, dated February 3d, 1877, distinctly disproves this averment; and I now dispose of the averment or suggestion that Mr. Harrison was chiefly instrumental in the prosecution of this litigation. The contrary is the truth.

RICHARD M. CADWALADER.

Sworn and subscribed before me, this eighth day of February, 1877.

WILLIAM H. MYERS,
Notary Public.

[SEAL]

Edward Hartshorne, M. D., 1601 Walnut street, being duly affirmed, saith:—

I am sure that there has been a modification in the ringing of the bells of St. Mark's Church of late. Other members of my household have noticed it, and it has been a matter of remark in the family. I feel justified, by my general professional experience and by some special personal experience during a recent illness, in expressing my sympathy with the petitioners in their application for relief, as I am satisfied that the ringing must be injurious as well as annoying to the residents of the houses in the immediate neighborhood of the

church, which are not shielded by the intervening houses, and I desire to be so placed upon the record of this case.

EDWARD HARTSHORNE.

Affirmed and subscribed, this eighth day of February, A. D. 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

Henry C. Gibson, No. 1612 Walnut street, sworn:—

I have noticed a very marked change in the ringing of the bells of St. Mark's Church since this suit was brought. The force of the blow in striking the bells is not so great, nor is the ringing so rapid, while the rests are more frequent than before. It is still a great nuisance, and the bells are rung far too long and too often. They ought to be abolished entirely, or very materially reduced.

HENRY C. GIBSON.

Sworn to and subscribed, February 8th, 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

Alfred C. Harrison, being duly sworn declares, as follows:—

I have noticed a decided change in the manner of ringing the bells of St. Mark's Church of late. The change was not gradual but apparently sudden, and seemed to be attendant upon an attempt to create musical sounds by the use of the bells, which, however has been a failure. This modification consists not only of diminution in the number of strokes, but also of the force of the blows upon the bells.

On Sunday afternoon, February 4th, I counted the number of strokes for ten minutes, between half-past three and four

o'clock, and found it to be five hundred and sixty-seven, or less than fifty-seven per minute.

It is my clear impression and belief that, in the fall, and perhaps early winter, the average number of strokes amounted to not less than ninety per minute.

ALFRED C. HARRISON.

Sworn to and subscribed before me, this ninth day of February, 1877.

[SEAL]

JOHN RODGERS,
Notary Public.

Mrs. Mary McFarlane, No. 3 Greenville place (running east and west, between Fifteenth and Sixteenth and Walnut and Locust streets), being duly affirmed, saith :—

The bells of St. Mark's Church do not ring so hard or so long as they used to. I have noticed this for some weeks past.

MARY ^{Her} + McFARLANE.
mark.

Affirmed and subscribed, February 6th, 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

Mrs. Maggie Donaldson, No. 5 Greenville place, being duly affirmed, saith :—

The bells of St. Mark's Church used to be a great annoyance to me. They are not so bad now, as they do not ring so loud or so long as they used to; but to the sick they are very bad, and in summer they will be a great nuisance again.

MAGGIE DONALDSON.

Affirmed and subscribed, February 6th, 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

James Clinton, No. 1 Greenville place, being duly sworn, saith :—

The bells of St. Mark's Church are a great nuisance. They ring far too often—too long, and too loud. The early morning bell was a great disturbance. In summer, the noise comes rushing down this place fearfully. The bells always woke me up and I could not sleep while they were ringing.

JAMES CLINTON.

Sworn to and subscribed, February 6th, 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

Mrs. Bridget Clinton, No. 1 Greenville place, being duly affirmed, saith :—

The bells of St. Mark's Church are a great annoyance and distress to me, and have been so ever since they began. I was ill last fall, and last month for a whole month, and they were very painful and racking to me by their frequent and long-continued ringing. I think they ought to be stopped or reduced more than they have been yet.

Her
BRIDGET + CLINTON.
mark.

Affirmed and subscribed, February 6th, 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

Mary Kane, No. 4 Clinton avenue, being duly affirmed, saith :—

The ringing of the bells of St. Mark's Church is a great nuisance. The sound comes rushing down here fearfully. All of us think them a great nuisance. They are rung far

too often and too long. They are far worse in summer than now; and now they are not rung so hard or so long as they used to be. When the windows are open it is a great discomfort.

MARY KANE.

Affirmed and subscribed, February 6th, 1877, before me.

MACGREGOR J. MITCHESON,
Commissioner.

AFFIDAVITS DENYING ANIMUS.

George L. Harrison, being duly affirmed, says:—

I am one of the petitioners in the bill, “George L. Harrison and others *vs.* The Rector, Church-wardens and Vestrymen of St. Mark’s Church.”

I have seen defendants’ answer to the bill, and Exhibit D. accompanying said answer, on page 24, being a remonstrance of Joseph H. Dulles and others against the establishment of bells in said church. I have seen on page 36 of said answer, the “Remonstrances from George L. Harrison and others, presented at vestry meeting, January 4th, 1876.”

I notice, also, certain letters of MacGregor J. Mitcheson, marked Exhibits F and G, in said answer and exhibits of defendants.

I do now affirm that as to the remonstrance above noted, I had, to the best of my knowledge and belief, no intimation or information of its existence or intended preparation or submission, until it was offered to me for my signature, at which time about all the signatures attached to it had been made, and that in signing it, I made the reservation noted on page 26, sixth line from top, which was accepted by Charles C. Harrison and Alfred C. Harrison, and afterwards signed by myself and sons. I also affirm that as to the letters of M. J. Mitcheson, Esq., resulting from this remonstrance, I have

never seen them nor the answer until this day, February 3d, 1877, nor have I known anything about them.

GEORGE L. HARRISON.

Affirmed to and subscribed before me, this third day of February, A. D. 1877.

JOHN RODGERS,
Notary Public.

[SEAL]

S. Weir Mitchell, M. D., being duly sworn, says:—

I have seen the answer of defendants in the case of Harrison and others against St. Mark's Church, and have read these words on page 15, viz.:—

“Dr. S. Weir Mitchell, one of the parties to said correspondence, is believed to be the physician alluded to on page 6 of the bill, and the ‘unlucky nervous patients,’ mentioned in Dr. Mitchell’s letter of November 3d, 1876, are believed to consist, wholly or partly, of the complainant, George L. Harrison.’ ”

I do now swear that, in writing the letter referred to, I did not have the said Harrison solely or even chiefly upon my mind; that the relief asked for was more especially meant for another person, who still suffers from the early bell-ringing; and that the said George L. Harrison knew nothing of my correspondence with the rector of St. Mark's Church until it was over.

S. WEIR MITCHELL, M. D.

Sworn and subscribed, this third day of February, A. D. 1877.

JOHN URIAN,
Alderman.

[SEAL]

My attention having been invited to the printed copy of the first memorial referred to in this case, as it appears upon pages 24, 25 and 26 of defendant's Exhibit D, I notice a mistake in the printing, as follows:—

The name of George L. Harrison should have been placed *below* instead of *above* the sixth line on page 26, so that it should read thus:—

“As to section five, the last three signers express no opinion.

“George L. Harrison, 1620 Locust street.

• “Charles C. Harrison, 1618 Locust street.

“Alfred C. Harrison, 1616 Locust street.”

To the best of my recollection and belief, neither of these gentlemen saw this remonstrance until after it had been signed by most of the residents upon Locust street, between Sixteenth and Seventeenth streets. Mr. George L. Harrison was not the originator of that remonstrance. It was prepared by myself. My honored friend, client and near neighbor, (the late) Joseph H. Dulles, was particularly averse to the introduction of the bells.

The “fifth section” referred to was prepared in consequence of the expressed opinion of two persons familiar with the ringing of bells in English cathedrals and churches, that if a full chime of bells were swung in the tower of St. Mark's Church—as usually swung in England—it might be attended with serious danger.

MACGREGOR J. MITCHESON.

Sworn to and subscribed, this third day of February, A. D. 1877, before me.

ROBERT D. COX,
Commissioner.

ARCHITECT.

Samuel Sloan, of the city of Philadelphia, being duly sworn, says:—

I am an architect, and have been in full practice for more than thirty years. My office is at No. 152 South Fourth street. In the course of my practice I have designed over three hundred and fifty churches throughout the United States.

Provision for bells has been made in many of these, and in all cases (but most especially in cities) care has been taken to give a free and unobstructed area to the transmission of the sound of bells. This, of course, can only be effected by locating the bells at a height greater than that of surrounding buildings. For if the buildings be above, or even on a level with the bells, the wave of sound must either recoil—causing echo—or drop to the ground, giving a harshness to it, on account of its obstruction.

The sound-wave is governed, as is the sea-wave, by the currents of air—the force of wind raising the wave so as to waft it over what in a calm state of the atmosphere might prove an obstruction.

Hence, it is necessary to give sufficient height to bells to raise their sound-wave effectually above the influence of calm weather. The proportions governing such height to be computed with the distance of the obstruction from the bells.

I am familiar with the situation and surroundings of St. Mark's Church, on Locust street, in this city, and consider the chief objection to its bells to be that they are in too close proximity to the neighboring houses, checking the progress of the sound-wave, especially on days when the atmosphere will not assist its raising the sound-wave over those levels; and in order to assure a perfect freedom from the present difficulty I deem it necessary to elevate them not less than thirty feet above their present location.

I have read the affidavit of Richard M. Upjohn, No. 111 Trinity Building, New York, who is *an* architect, but not Richard Upjohn, *the* architect, in which he lays down the

following rule :—" The general rule in the erection of church towers is to put the floor of the bell-chamber about on a level with the eaves of the surrounding buildings." I dissent from his opinion in regard to this rule, for the reasons already referred to, and further state, as corroborating evidence to sustain my objections, that, in the city of Venice, where there are many chimes of bells, and where the subject of acoustics as applied to bells has been studied more thoroughly than in any city in the world—in that city the canals and streets are unusually narrow, and the buildings generally very lofty; the bells in all cases are of much greater height than the surroundings. I will venture the assertion, from my personal observation, that the lowest bell-chambers are more than fifty feet above the house-tops. My attention was professionally attracted in this direction, and made it a point for study. The chime of bells in " St. Mark's" of that city are over or about three hundred feet from the pavement. I ascended this *campanile* to the height of the bells, for the purpose of examining their dimensions and arrangement, while on my visit to that city.

SAMUEL SLOAN.

Sworn and subscribed before me, this day of February,
A. D. 1877.

[SEAL]

WM. H. MYERS,
Notary Public.

Richard J. Dobbins, being duly sworn, says :—

I am extensively engaged in building, and am acquainted with the value of real estate in all parts of the city of Philadelphia. I have built largely on my own account, and it is necessary that I should understand whatever may influence values, beneficially or otherwise. I have been engaged in the business of a builder for twenty years, and the total sum of transactions in my profession will not fall short of twenty millions of dollars.

I know about the bells of St. Mark's Church, and that the matter has been agitated, ever since their establishment, by individuals and families who suffer from their immoderate use. I have also read the carefully-prepared paper of Thomas Cochran, in relation to the ringing of the bells of St. Mark's Church as to its effect upon the value of property in the neighborhood of the church. I agree with him in every point he makes in that relation. I should not expect to obtain within fifteen per cent of the amount for any property in the neighborhood mentioned with the bells in use there, as I should expect in their absence. They are certainly, in this respect of the case, a decided nuisance.

R. J. DOBBINS.

Sworn and subscribed before me, this sixth day of February,
A. D. 1877.

[SEAL]

A. S. L. SHIELDS,
Notary Public.

Addison Hutton, being duly affirmed, says:—

I have been a practicing architect for fourteen years. In that time about twenty churches have been erected from my designs, most of them in this city. None of the latter have bells, their projectors believing the annoyance to the neighborhood would outweigh their usefulness. This is a question which has been seriously discussed in nearly every case.

ADDISON HUTTON.

Affirmed and subscribed, this eighth day of February, 1877.

[SEAL]

EDWARD S. HARLAN,
Notary Public.

REAL ESTATE—NEW YORK.

V. K. STEVENSON, JR.,
No. 4 PINE STREET, N. Y.

I am of the opinion that the ringing of bells in the early morning, and the excessive and continuous ringing of the same, not only on Sundays but on every day in the week, seriously impairs the value of property in front and in rear of a church.

V. K. STEVENSON, JR.

CITY AND COUNTY OF NEW YORK, ss.

The above affidavit sworn to before me, this eighth day of February, 1877.

[SEAL]

GEO. B. McCLOSKEY,
Notary Public, New York County.

NEW YORK, 2 PINE ST.,
February 8th, 1877.

I am of the opinion that the ringing of bells in the early morning, and the excessive and continuous ringing of the same, not only on Sundays but on every day of the week, seriously impairs the value of property in front and in rear of the church and in the immediate vicinity.

HOMER MORGAN.

Subscribed before me, this eighth day of February, 1877.

[SEAL]

GEORGE T. MORTIMER,
Notary Public, New York County.

REAL ESTATE OFFICE OF LESPINASSE & FRIEDMAN,
No. 3 PINE STREET,
NEW YORK, February 8th, 1877.

I am of the opinion that the ringing of the bells in the early morning, and the excessive and continuous ringing of

the same, not only on Sundays but on every day in the week, seriously impairs the value of property in front and in rear of the church.

LEOPOLD FRIEDMAN,
Of Lespinasse & Friedman.

The above affidavit sworn to before me, this eighth day of February, 1877.

[SEAL]

(75) GEO. B. McCLOSKEY,
Notary Public, New York City.

E. H. LUDLOW & Co.,
AUCTIONEERS AND REAL ESTATE AGENTS,
(Established 1836.)
OFFICE, NO. 3 PINE STREET,

EDWD. H. LUDLOW,
MORRIS WILKINS,
GEO. R. READ.

NEW YORK, February 8th, 1877.

We are of the opinion that the ringing of bells in the early morning, and the excessive and continuous ringing of the same, not only on Sundays but on every day in the week, seriously impairs the value of property in front and in rear of the church.

GEO. R. READ,
For E. H. Ludlow & Co.

CITY AND COUNTY OF NEW YORK, ss.

The above affidavit sworn to before me, this eighth day of February, 1877.

[SEAL]

(75) GEO. B. McCLOSKEY,
Notary Public, New York County.

REAL ESTATE OFFICE OF LESPINASSE & FRIEDMAN,
3 PINE STREET.

NEW YORK, February 8th, 1877.

I am of the opinion that the ringing of the bells in the early morning, and the excessive and continuous ringing of

the same, not only on Sundays but on every day in the week, seriously impairs the value of property in front and in rear of the church.

GEO. L. LESPINASSE.

CITY AND COUNTY OF NEW YORK, ss.

The above affidavit sworn to before me, this eighth day of February, 1877.

[SEAL]

(75) GEO. B. McCLOSKEY,
Notary Public, New York County.

RINGING AT CALVARY CHURCH.

Samuel K. Smyth, being duly sworn according to law, deposes and says:—

I am the sexton of the Calvary Presbyterian Church, situated on the south side of Locust street, between Fifteenth and Sixteenth streets, in the city of Philadelphia, and I have been sexton of said church, continuously, since the year 1853. The bell on said church is rung on Sunday mornings at ten o'clock for five minutes, and then stopped for fifteen minutes, and rung again for five minutes. On the evenings of Sundays, at seven o'clock in the winter season, and at half-past seven o'clock in the summer season, the bell is rung for five minutes; it is then stopped for fifteen minutes, as in the morning, and then rung again for five minutes. On Wednesday evenings of each week the bell is rung for five minutes at eight o'clock—for five minutes only. The bell is not rung on any other occasion, except on Thanksgiving Day, and for the same length of time as on Sundays.

SAM'L K. SMYTH.

Sworn and subscribed before me, this twenty-ninth day of January, A. D. 1876.

[SEAL]

JOHN RODGERS,
Notary Public.

John Smyth, being duly sworn according to law, deposeth and saith:—

I have read the deposition of Samuel K. Smyth, the sexton of the Calvary Presbyterian Church, and the facts stated therein are true. I have charge of the bell-ringing for said church, under the direction of Samuel K. Smyth, the sexton. I give two strokes to the bell every twenty seconds or six strokes to the minute—that is, I give one pull to the bell-rope every twenty seconds, which will give two strokes to the bell in that time, and three pulls to the rope will give six strokes to the minute.

JOHN SMYTH.

Sworn to and subscribed before me, this twenty-ninth day of January, A. D. 1877.

JOHN RODGERS,
Notary Public.

[SEAL]

James Parke, being duly affirmed, says:—

My residence is No. 1620 Chancellor street, and I am in the employ of Mr. Thomas H. Powers, residing at 1618 Walnut street. My dwelling is directly in the rear of St. Mark's Church, and I am, of course, quite familiar with the ringing of their bells, with which my family have been much disturbed. The 6.45 A. M. bell of Sunday, which has been discontinued since November last, was the most objectionable. I am opposed to the use of these bells.

JAMES PARKE.

Affirmed to and subscribed before me, this ninth day of February, 1877.

JOHN RODGERS,
Notary Public.

[SEAL]